

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TEXAS
SAN ANTONIO DIVISION**

JOHN WESLEY BALES,	§	
Plaintiff,	§	
	§	
V.	§	CIVIL ACTION NO. 5:20-CV-464
	§	
WILLIAM H. BARR, ATTORNEY	§	
GENERAL OF THE UNITED STATES;	§	
the UNITED STATES DEPARTMENT OF	§	
JUSTICE; and the FEDERAL BUREAU	§	
OF INVESTIGATION,	§	
Defendants.	§	PLAINTIFF DEMANDS A JURY TRIAL.

PLAINTIFF'S ORIGINAL COMPLAINT

TO THE HONORABLE JUDGE OF SAID COURT:

Now comes JOHN WESLEY BALES, hereinafter referred to as the Plaintiff, complaining of WILLIAM H. BARR, ATTORNEY GENERAL OF THE UNITED STATES; the UNITED STATES DEPARTMENT OF JUSTICE; and the FEDERAL BUREAU OF INVESTIGATION, hereinafter sometimes referred to individually by name ("Barr," "DOJ," or "FBI") or collectively as the Defendants, and as and for his causes of action against said Defendants, Plaintiff would respectfully show the Court as follows:

NATURE OF THE CASE

(1) This is a civil action brought by the Plaintiff under the provisions of the Rehabilitation Act of 1973, 29 U.S.C. § 701, et seq., and the Americans with Disabilities Act of 1990, as amended, 42 U.S.C. § 12101, et seq., wherein the Plaintiff claims that the Defendants discriminated against him on the basis of disability when he was removed, dismissed, and/or expelled from the FBI's Basic Field Training Course on or about August 2, 2017. Plaintiff also claims that the Defendants retaliated against him by denying him selection to a GS9 Intelligence

Analyst position.

JURISDICTION

(2) This Court has jurisdiction of this civil action under the provisions of 28 U.S.C. §§ 1331 and 1343, and 29 C.F.R. § 1614.407 (d).

VENUE

(3) Venue of this civil action is proper in the San Antonio Division of the Western District of Texas.

PARTIES

(4) The Plaintiff, JOHN WESLEY BALES, is an individual citizen of the United States who resides in San Antonio, Bexar County, Texas. At all times material and relevant hereto, Mr. Bales was an “employee” of the Federal Bureau of Investigation, as that term is defined at 42 U.S.C. § 12111 (4), and was a qualified individual with a disability, as the terms “qualified individual” and “disability” are defined at 29 U.S.C. § 705 (20) and 42 U.S.C. § 12111 (8), and at 29 U.S.C. § 705 (9) and 42 U.S.C. § 12102, respectively.

Mr. Bales suffers from a hearing impairment, as well as anxiety and depression.

(5) The Defendant, WILLIAM H. BARR, is the Attorney General of the United States, and as such, is the head of the UNITED STATES DEPARTMENT OF JUSTICE. The FEDERAL BUREAU OF INVESTIGATION is a branch or division of the Department of Justice.

At all times material and relevant hereto, the FEDERAL BUREAU OF INVESTIGATION was the Plaintiff’s employer.

The Defendants may be served with summons herein by delivering the same, together with a copy of this Complaint, by certified mail, return receipt requested, to Mr. William H. Barr,

Attorney General of the United States, 950 Pennsylvania Ave., NW, Washington, DC 20530; and to Mr. John F. Bash, United States Attorney for the Western District of Texas, Attention: Civil Process Clerk, Ms. Stephanie Rico, at 601 NW Loop 410, Suite 600, San Antonio, Texas 78216.

FACTS

(6) The Plaintiff, JOHN WESLEY BALES, was hired by the Federal Bureau of Investigation as an Intelligence Analyst trainee (GS-9) and was assigned to the FBI Academy in Quantico, Virginia. He reported to the Academy on May 14, 2017, and was scheduled to complete the FBI's Basic Field Training Course (BFTC), and to thereafter be assigned as an Intelligence Analyst, on August 16, 2017.

(7) On or about July 27, 2017, ten (10) weeks into the twelve (12) week course, Mr. Bales was advised that he had failed a test, known as the FD-302, that he was required to pass in order to complete his training and graduate from the Academy. Mr. Bales was advised that his failure consisted of attributing the wrong name to the wrong person in his description of an investigative interview. He was retested on July 28, 2017, but was advised on August 1, 2017 that he had again failed the test.

(8) On August 2, 2017, he was ordered to appear before the Trainee Review Board, which Board, after hearing Mr. Bales' presentation as to why he had failed the FD-302 test, including the fact that he suffers from anxiety and depression, as well as a hearing impairment, recommended that he be removed or expelled from the BFTC.

(9) On that same day, August 2, 2017, he was dismissed from the BFTC, but was given assurances that another position comparable to the Intelligence Analyst position, for which he was well qualified and to which he had anticipated being assigned, would be identified and offered to

him. Had he been assigned to an Intelligence Analyst position, he would have remained a GS-9 employee for one year, after which he would have been promoted to GS-11, and, a year after that, to GS-12.

(10) Despite the fact that he was well qualified for other positions comparable to the Intelligence Analyst position to which he anticipated being assigned, on August 8, 2017, he was offered a position as an Operations Support Technician (OST) (GS-7, Step 1) in the San Antonio Field Office of the FBI, a position which is not comparable to the Intelligence Analyst position, and he was advised that, if he did not accept the OST position, he would be terminated as an employee of the FBI.

(11) Reluctantly, he accepted the OST position, and began working in the San Antonio Field Office on or about September 17, 2017. He has since been promoted to GS-8, Step 2, and he has recently been selected to a GS-11 Staff Operations Specialist position.

(12) After accepting the OST position in San Antonio, Mr. Bales applied for several other positions within the FBI for which he is well qualified, but was, until recently, denied selection to any of those positions.

(13) On February 26, 2020, Mr. Bales was notified by the FBI that he had been selected to a GS9, Step 1 Intelligence Analyst position, to begin on May 10, 2020. As instructed, Mr. Bales e-mailed the person who notified him of his selection that he accepted the appointment. On March 9, 2020, Mr. Bales was notified that the FBI was rescinding its offer of the position, for the false and pretextual reason that he had previously been dismissed from the BFTC “due to academic failure.” Mr. Bales contends that the FBI rescinded its offer of the position, which offer he had already accepted, in retaliation for his having filed an EEO complaint regarding his August 2017 dismissal

from the BFTC, and not because of any “academic failure.”

EXHAUSTION OF ADMINISTRATIVE REMEDIES

(14) On December 1, 2017, Mr. Bales contacted an EEO counselor regarding his dismissal from the BFTC, claiming disability discrimination.

(15) On or about January 18, 2018, Mr. Bales filed a formal complaint of discrimination with the FBI, again alleging disability discrimination. The complaint was investigated, and, on or about April 4, 2019, the FBI issued a notice to Mr. Bales that the investigation had been completed. In that notice, he was also advised that, if he wished to continue to pursue his claim of discrimination, he could either request a hearing before an EEOC Administrative Judge or a final agency decision by the Department of Justice.

(16) On April 18, 2019, Mr. Bales gave notice to the Dallas District Office of the EEOC and to the FBI that he was requesting a hearing before an EEOC Administrative Judge.

(17) More than 180 days have expired since Mr. Bales requested a hearing before an EEOC Administrative Judge. No Administrative Judge has been appointed to hear his case, no hearing has been scheduled, and no decision has been issued.

(18) On or about November 27, 2019, Mr. Bales withdrew his request for a hearing, but explicitly stated that he was not withdrawing his underlying complaint. Pursuant to his request, the EEOC dismissed his request for a hearing.

(19) Mr. Bales has exhausted his administrative remedies and now brings this civil action against the above-named Defendants.

CAUSE OF ACTION

(20) Based upon the above and foregoing statement of the facts, the Plaintiff, JOHN

WESLEY BALES, now brings this civil action against the Defendants, alleging that the Defendants have discriminated against him because of his disability in violation of 29 U.S.C. § 791 and 42 U.S.C. § 12112. As relief from said violation of law, Mr. Bales seeks a judgment of this Court ordering the following: (a) That Mr. Bales be reinstated/readmitted to the FBI's Intelligence Analyst training program, (b) That he be paid back pay for the period from July 27, 2017 to date of judgment, (c) That, once he is reinstated/readmitted to the Intelligence Analyst training program, his disabilities be reasonably accommodated, (d) That he be paid/reimbursed his costs of court, and (e) That he be paid/reimbursed his reasonable attorney's fees incurred herein.

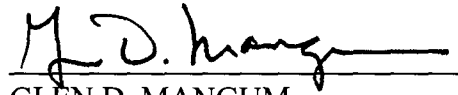
(21) The Plaintiff, JOHN WESLEY BALES, also brings this civil action against the Defendants, alleging that the Defendants retaliated against him because he engaged in protected activity, i.e. because he filed a complaint of discrimination against them. As relief from said violation of law, Mr. Bales seeks a judgment of this Court ordering the following: (a) That Mr. Bales be reinstated/readmitted to the FBI's Intelligence Analyst training program, (b) That he be paid back pay for the period from May 10, 2020 to date of judgment, (c) That, once he is reinstated/readmitted to the Intelligence Analyst training program, his disabilities be reasonably accommodated, (d) That he be paid/reimbursed his costs of court, and (e) That he be paid/reimbursed his reasonable attorney's fees incurred herein.

(22) Plaintiff demands a jury trial of this civil action.

WHEREFORE, PREMISES CONSIDERED, the Plaintiff, JOHN WESLEY BALES, respectfully prays that summons be duly issued and served upon the Defendants, as provided by law, and that, upon final hearing hereof, he shall have and recover judgment of and from said Defendants for the relief requested hereinabove, and for such other and further relief to which he may show

himself justly entitled.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "G.D. Mangum", written over a horizontal line.

GLEN D. MANGUM

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